

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 342

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO THE LOCAL PLANNING ACT; AMENDING CHAPTER 65, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6539, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE PROCEDURES AND STANDARDS FOR THE SITING OF WIND ENERGY FACILITIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 65, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-6539, Idaho Code, and to read as follows:

67-6539. SITING OF WIND ENERGY FACILITIES. (1) As used in this section:

(a) "Wind energy facility" or "facility" means any wind powered electrical generation development consisting of an individual wind turbine or multiple wind turbines with a manufacturer's name plate rate that exceeds one-half (0.5) megawatt of generation capacity and the lands where the owner or developer proposes to erect wind turbines.

(b) "Enlarge" or "enlargement" means adding additional turbines or enlarging the capacity of the wind energy facility by replaced turbines that exceed the height of the wind turbines first permitted as part of an original permitting process.

(c) "Owner" means the surface owner of land.

(d) "Developer" means any person, entity, organization or representative of any entity who makes application for the permit or permits to construct a wind energy facility.

(e) "Residential property" means any property that is owned for the purpose of providing a place of habitation and human shelter. A platted residential subdivision or property that can be documented as purchased for residential purposes is also residential property. It also includes any property that is identified by the county as a "separate" parcel that by itself would be too small to qualify for the exemption provided in section 63-602K, Idaho Code, or property that is owned and improved for the purpose of providing lodging, camping or other temporary human occupancy.

(2) It is unlawful for any county to approve, permit or license any wind energy facility to be constructed or enlarged unless the following minimum standards are met:

(a) The county or the developer seeking the permit to construct or enlarge a facility can certify that it has notified, in writing, every owner of land within two (2) miles of the proposed wind energy facility and every city located within five (5) miles of the wind energy facility. Such distances shall be calculated from the outside boundaries of

1 the property lines on which the wind energy facility is being proposed;
2 and

3 (b) Notice shall include a general description of the project including
4 its location, projected number of turbines and likely routes of ingress
5 and egress.

6 (3) No wind energy facility shall be approved by a county that would lo-
7 cate the base of any tower at a distance of less than two (2) miles from the
8 property line of residential property, unless waived in writing by the owner
9 of residential property that would be located closer than the minimum dis-
10 tance herein.

11 (4) No wind energy facility shall be approved by a county that would lo-
12 cate the base of any tower at a distance that is less than the distance re-
13 quired to prevent moving shadows, shadow flicker or other visual effects to
14 appear on the surface of the property of an owner of land not included in the
15 wind energy facility.

16 (5) No wind energy facility shall be approved that would locate the base
17 of any tower at a distance of less than two (2) miles from property zoned res-
18 idential, unless waived in writing by all affected property owners.

19 (6) No wind energy facility shall be approved that would locate the base
20 of any tower that is less than the distance required to prevent moving shad-
21 ows, shadow flicker or other visual effects appearing on the surface of a
22 public highway.